



European Union (Referendum) Bill 2013-14- **progress of the bill**

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This Standard Note sets out progress on the *European Union (Referendum) Bill 2013-4* introduced by the Conservative MP James Wharton, who was first in the ballot for Private Members' Bills. The Bill was given a second reading on Friday 5 July 2013 by 304 votes to nil. [Research Paper 13/41 *European Union \(Referendum\) Bill*](#) gives full background to the Bill. The question to be asked, as set out in the Bill is: "Do you think that the United Kingdom should be a member of the European Union?"

A Money Resolution was debated in the Commons on 16 July 2013. The committee stage began on 17 July 2013, when the [Public Bill Committee](#) sat for over 10 hours. There were six sittings, ending on 11 September and no amendments were made. Once the Bill had been given a second reading, the Electoral Commission began its consultation on the intelligibility of the question, using its powers under section 104 of the *Political Parties, Elections and Referendums Act 2000*. It issued its report on 29 October 2013. It recommended that Parliament might want to consider a different formulation to the question, noting that some potential electors were unaware that the UK was currently a member of the EU.

Report stage took place on 8, 22 and 29 November 2013. A new clause was added allowing Commonwealth citizens in Gibraltar to vote in the EU referendum, but no other major amendments were made. The question was unamended. The Bill has been reprinted as [HL Bill 63](#) and is being sponsored in the Lords by Lord Dobbs. It is due for second reading on 10 January 2014.

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1 Introduction

[Research Paper 13/41 *European Union \(Referendum\) Bill*](#) gives a full briefing on the Bill. [Research Paper 13/42 *Leaving the EU*](#) discusses the processes of leaving and the benefits or otherwise.

1.1 Second reading 5 July 2013

The [second reading](#) took place on Friday 5 July. Mr Wharton introduced his Bill. He noted that there were two main reasons for the bill; firstly that the last time that the people had had a chance to voice their opinion on membership was in the 1975 reference and secondly that the EU had changed markedly since then.

The Shadow Foreign Secretary, Douglas Alexander, said that the Labour Party did not believe that “an in-out referendum in 2017, as anticipated in the hon. Gentleman’s bill, is in the national interest”.¹ William Hague, the Foreign Secretary, drew attention to the decision of the Labour Party to abstain in the vote on the Bill² and noted that no institution could survive without the people’s support. He also commented on the position of the Liberal Democrats, citing their commitment to an in-out referendum in their 2010 manifesto.³ Keith Vaz queried whether David Cameron would be able to negotiate fundamental reforms, to be agreed by EU members between 2015 and 2017 when the referendum would be held under the terms of the Bill. John Denham pointed out that the Bill as drafted would allow for a referendum straight away, although this was not the preferred position of the Prime Minister.⁴ Zac Goldsmith pointed out that a number of trade unions were actively campaigning for a referendum, under the banner of the [People’s Pledge](#).⁵ Nigel Dodds stated the support of the DUP for the Bill.⁶

The Liberal Democrat Martin Horwood referred to the passage of the *European Union Act 2011*, as relevant to the Liberal Democrat manifesto. He said that he consistent position of his party was in favour of an in/out referendum either at a time of major fundamental treaty change, or at a time of transfer of power.⁷ The Conservative backbencher, Sir Edward Leigh, warned that the Bill would likely be talked out in the Lords and that the Conservatives would have to come back to the Prime Minister and ask for a Government bill.⁸ A number of Labour backbenchers including Jim Dowd, said that they hoped to persuade their front bench to support a referendum at some point, given that the only referendum so far had been at the instigation of a Labour Government.⁹ Sir George Young, the Conservative Chief Whip, then moved the closure, which was won by 305 votes to 30, and the Bill received a second reading by 304 votes to nil.¹⁰

The Electoral Commission produced a [second reading briefing](#) on the Bill. The briefing noted the importance of at least a six month gap between the holding of the poll and the final passage of the legislation underpinning the referendum, and the need to carry out a formal consultation on the question, which for a PMB should take place after second reading.

¹ HC Deb 5 July 2013 [c 1181](#)

² Ibid c1188

³ [HC Deb 5 July 2013 c1191](#)

⁴ Ibid c1197

⁵ Ibid c1205

⁶ Ibid c1212

⁷ Ibid 1225

⁸ Ibid c1240

⁹ Ibid c1244

¹⁰ Ibid c1247

2 Money Resolution Debate 16 July 2013

The Minister for Europe, David Lidington, explained the need for a Money Resolution on a Private Member's Bill:

It is standard Government procedure to introduce a money resolution for any private Member's Bill to which the House has given a Second Reading to enable the Bill to be fully debated in Committee. It is inevitable that costs would be incurred in holding a referendum on the UK's membership of the European Union, and a money resolution is required to enable those costs to be paid.¹¹

Mr Lidington said that there had not been a detailed estimate of the cost of the referendum but the precedent was the £75.3m cost of the Alternative Vote referendum in 2011. Exact costs would be dependent on whether the poll was combined with other elections.¹²

Emma Reynolds, for the Opposition, said that they would not oppose the Money Resolution, but there were still questions to answer about the expenditure implications of the Bill.¹³ The Labour backbencher Mike Gapes addressed the question of the timing of the referendum, suggesting that it could be combined with a general election. Other points raised were the possible inclusion of Gibraltarians and 16 to 17 year old voters.¹⁴ The Resolution was passed without a division.

3 Committee stage

The Chairs were Mr Joe Benton and Mr Gary Streeter and the sittings motion eventually agreed after a division was to meet on Tuesdays at 2.00pm and Wednesdays at 8.55 pm and 2.00 pm on days when the House is sitting.

The 16 Public Bill Committee members were as follows:

- †Bain, Mr William (*Glasgow North East*)(Lab)
- †Burley, Mr Aidan (*Cannock Chase*)(Con)
- Campbell, Mr Gregory (*East Londonderry*)(DUP)
- †Dowd, Jim (*Lewisham West and Penge*)(Lab)
- †Ellwood, Mr Tobias (*Bournemouth East*)(Con)
- †Hart, Simon (*Carmarthen West and South Pembrokeshire*)(Con)
- †Hopkins, Kelvin (*Luton North*)(Lab)
- †Horwood, Martin (*Cheltenham*)(LD)
- †Latham, Pauline (*Mid Derbyshire*) (Con)
- †Lidington, Mr David (*Minister for Europe*)
- †Reynolds, Emma (*Wolverhampton North East*)(Lab)
- †Sheerman, Mr Barry (*Huddersfield*)(Lab/Co-op)

¹¹ HC Deb 16 July 2013 c1019

¹² Ibid c1019

¹³ Ibid c1020

¹⁴ Ibid c1024

†Smith, Miss Chloe (*Parliamentary Secretary, Cabinet Office*)

†Vaz, Keith (*Leicester East*)(Lab)

†Wharton, James (*Stockton South*)(Con)

†Williamson, Gavin (*South Staffordshire*)(Con)

† attended the Committee

An extensive series of amendments were tabled for debate, all from Labour Members¹⁵ The Bill's sponsor, James Wharton, blogged that there had been filibustering by both Liberal Democrat and Labour MPs until nearly 1am..¹⁶ BBC Parliament's Mark D'Arcy also recorded the filibuster and the visit of the Prime Minister to listen to the debate.¹⁷

The committee first dealt with the sittings motion, to decide when and how often it would sit to examine the bill. Emma Reynolds, Shadow Minister for Europe, and Martin Horwood, a Liberal Democrat backbencher spoke extensively on the motion, among other Members. Eventually the committee divided on the motion around 5pm after sitting for 3 hours..¹⁸

The first group of amendments discussed was on the question of a mandatory amendment. Emma Reynolds expressed concern that holding a referendum up to four years in the future was creating uncertainty about the UK's relationship with the EU. The Minister for Europe, David Lidington, confirmed that the Electoral Commission would carry out its usual practising on consulting on the question to be posed in the referendum.¹⁹ He made clear that he was speaking as a Conservative Minister and not on behalf of the coalition as a whole.²⁰ The Committee was adjourned at 12.18am.

The second sitting on [3 September 2013](#) concentrated on clause 1. Issues discussed included the length of the campaign period before the referendum, the wording of the question, interaction with the *Political Parties Elections and Referendum Act 2000* and use of and the super-affirmative resolution procedure. On [4 September](#) debate on clause 1 concluded with discussion on amendments to require informed policy discussion before a referendum.²¹ None were moved At the fourth sitting on the afternoon of [4 September](#) attention turned to the franchise, including eligibility at 16 years of age and the position of EU citizens, including Gibraltarans, contrasting the position with that for the referendum on independence for Scotland. In response David Lidington said:

I understand the case that my hon. Friend and others have made for using the local election franchise and extending the vote to citizens of other EU countries, but British citizens would find that hard to swallow. We have large numbers of people from other EU countries here, and London is something like the seventh-largest French city, which is why French presidential candidates come over here during their election campaigns. However, the decision should be primarily for British citizens.²²

¹⁵ [European Union Referendum Bill Public Bill Amendments as at 17 July 2013](#)

¹⁶ [Conservative Home](#) "James Wharton MP How Labour and the LibDems filibustered my EU referendum bill last night" 18 July 2013

¹⁷ ["Swabians, Chairs and Clerks"](#) Mark D'Arcy blog 18 July 2013

¹⁸ [SC Deb 17 July 2013](#) c43

¹⁹ [SC Deb 17 July 2013](#) c97

²⁰ [SC Deb 17 July 2013](#) c99

²¹ [PBC 4 September 2013](#) c150-165

²² [PBC 4 September 2013](#) c201

He reaffirmed his support for the right to vote for Irish and Commonwealth citizens. He promised to reflect further on the question of Gibraltar.²³

At the fifth sitting on [10 September 2013](#) the question of a threshold for the referendum the day of the poll and possible combination of polls with other elections, the super affirmative resolution procedure and the position of Gibraltar. In response, Chloe Smith pointed out that the Secretary of State was already given a power under clause 1(3) to make regulations allowing combination of polls.²⁴ The sixth sitting on [11 September](#) considered clauses 4 and 5 and new clauses, without any amendments. David Lidington responded to question on costs by reminding the committee that the Electoral Commission had indicated that the proposed cost would be in the order of £75.3m²⁵ He also indicated that there had not been discussion with the Scottish Government about the implications of a yes vote in the independence referendum.²⁶ A new clause on public information campaigns, drew the response from Mr Lidington that the existing PPERA provisions should be sufficient for the issues to be aired.²⁷

4 Electoral Commission report on the referendum question

The Commission launched its formal consultation on the question on 10 July 2013 and made its report on 29 October 2013. There was a written statement to Parliament, made on the Commission's behalf by the Speaker's Committee on the Electoral Commission.

The Commission concluded that the question could be improved, in particular to reduce the risk of misunderstanding or ambiguity about the current membership status of the UK within the EU. The written statement suggested that Parliament could consider a move away from simple Yes or No answers:

The Commission's consultation, analysis and research with the public has not, however, identified a single preferred wording for the question. Because of the complexity of the issues covered by this referendum question, their research suggests that currently, in the context of a referendum on the UK's membership of the EU, a question using 'Yes' and 'No' as response options would not be able to fully resolve those issues. The Commission's recommendations therefore highlight an important decision for Parliament, as to whether to retain or move away from the UK's recent experience of referendum questions using 'Yes' and 'No' responses.

If Parliament wishes to retain the use of 'Yes' and 'No' as response options, then the Commission recommends that the referendum question should be amended to: 'Should the United Kingdom remain a member of the European Union?'

However, the Commission's research suggests that some people will perceive either positive or negative associations with the phrase 'remain a member of the European Union', although there was no evidence that this wording resulted in research participants changing their voting preference in any way. If Parliament decides not to retain a referendum question which uses 'Yes' and 'No' as response options, having taken into account the risk of a perception of bias which might be associated with that approach, then the Commission recommends amending the question to: 'Should the United Kingdom remain a member of the European Union or leave the European

²³ [PBC Deb 4 September 2013 c204](#)

²⁴ [PBC Deb 10 September 2013 c223](#)

²⁵ [PBC Deb 11 September 2013 c231](#)

²⁶ [PBC Deb 11 September 2013 c235](#)

²⁷ [PBC Deb 11 September 2013 c2246](#)

Union?’ with ‘Remain a member of the European Union’ and ‘Leave the European Union’ as response options.²⁸

The Electoral Commission noted that if Parliament amended the Bill in this way, the Commission would need to undertake a further assessment of the intelligibility of the proposed wording, which it would do as quickly as possible. It also tested the proposed question in Welsh. The full report is available from the Electoral Commission website.²⁹

Debate continued among commentators about whether the question is formulated correctly.³⁰

5 Report and Third Reading 8, 22 and 29 November 2013

A new clause was added on the Bill’s first day in report on 8 November 2013 to allow those Commonwealth citizens in Gibraltar eligible to vote in European Parliament elections there to vote in the referendum.³¹ The amendment was moved by Andrew Rosindell and supported by James Wharton and was unopposed. The Foreign Office minister, David Lidington explained that discussions had taken place with Gibraltar since committee stage:

I have consulted the Chief Minister of Gibraltar about his Government’s wishes, and he has advised me that they wish the franchise for this proposed referendum to be extended to the citizens of Gibraltar. Having taken advice, I am confident that the wording of my hon. Friend’s new clause would give proper effect to that wish by enfranchising Gibraltarians.

Hon. Members have asked about subsections (2) and (3) of new clause 1. To some extent, my hon. Friend the Member for Cheltenham answered this point by saying that they were designed to make it clear that the underlying constitutional order, expressed in the 2006 Gibraltar constitution, remained untouched. Under current arrangements, the franchise for European parliamentary elections in Gibraltar is determined by an Act of the Gibraltarian Parliament and Government, rather than by this House. In this case, however, the new clause proposes that the UK Parliament set the terms of a franchise that, for the purposes of this referendum, would include Gibraltar. For that reason, subsections (2) and (3) make it clear that despite this particular instance, that underlying constitutional relationship—the 2006 constitution gives far-reaching internal powers of self-government to the elected Administration in Gibraltar—remains undisturbed.³²

Other amendments on the franchise gave rise to a debate on the sense or otherwise of using the parliamentary franchise, which excluded EU citizens living in the UK and British citizens resident in Europe for over 15 years, as well as other British Overseas Territories residents. The question of giving 16 and 17 year olds the vote was also raised. None of these amendments were accepted. The Electoral Commission produced a [briefing](#) on report stage., but did not consider the individual amendments.³³

The Conservative backbencher Adam Afriyie spoke to an amendment to ensure that the referendum was held in October 2014.³⁴ The amendment was grouped with others on the

²⁸ [HC Deb 29 October 2013 c35WS](#)

²⁹ [Electoral Commission Advice of the Electoral Commission on the referendum question in the European Union \(Referendum\) Bill October 2013](#)

³⁰ [“The EU question formulated in the Conservative private members’ bill is both highly biased and vague; it would actively misinform UK voters”](#) 11 July 2013 Patrick Dunleavy LSE blog

³¹ [HC Deb 8 November 2013 c539](#)

³² [HC Deb 8 November 2013 c558](#)

³³ [Electoral Commission European Union Referendum Bill Report Stage 8 November 2013](#)

³⁴ [HC Deb 8 November 2013 c591](#)

need to consult before the referendum is held. The debate was adjourned at 2.30pm on 8 November and resumed on 22 November. Then, David Lidington argued against 2014 as difficult in the context both of the Scottish referendum on independence that year, and the European Parliament elections also in 2014, which would inhibit negotiations.³⁵ The debate was ended by a closure motion³⁶ and the Afriyie amendment was lost by 15 votes to 249.³⁷

Debate then moved on to the wording of the question, in the context of the opinion of the Electoral Commission. David Lidington provoked some disagreement when summarising the Commission position:

Mr Lidington: Finally, there is the important category of amendments on the wording of the question, which draw upon the Electoral Commission's recent report. It is important to bear in mind how the commission went about its work and the tone with which it presented its report. It carried out 103 interviews with individuals and received representations from 19 individuals and organisations. On the basis of those consultations and its own analysis, it concluded that the Bill met most of the tests that it would normally expect any referendum question to meet. It did not put forward an alternative wording but, rather usually, suggested—I use the term deliberately—two possible alternative wordings. There was no suggestion anywhere in its findings that the question drafted by my hon. Friend the Member for Stockton South was misleading or in any way designed to be unfair, but it suggested that Parliament might like to consider some alternative forms of words.

Mr Thomas: With all due respect to the Minister, the Electoral Commission's view is crystal clear. It stated:

“We recommend that the wording of the proposed referendum question included in the European Union (Referendum) Bill should be amended to make it more direct and to the point, and to improve clarity and understanding.”

Surely he read that sentence.

Mr Lidington: If the hon. Gentleman goes back to the report, he will see that the commission stated very clearly that it believed that the question drafted by my hon. Friend met pretty much all the tests it would expect. There was a debate on the degree of clarity, and the commission drew attention to the fact that there were different views among the people they consulted and from whom they received representations about both my hon. Friend's wording and the various options that the commission invited Parliament to consider.³⁸

No amendments to the wording of the question were made.

On the third day (29 November) a series of amendments were debated, but none were passed. These included a threshold provision for the referendum³⁹, compulsory voting⁴⁰, advertisements in newspapers⁴¹ and other measures on the conduct of the referendum. The Bill then passed its third reading without a division.⁴²

³⁵ [HC Deb 22 November 2013 c1483](#)

³⁶ [HC Deb 22 November 2013 c1508](#)

³⁷ [HC Deb 22 November 2013 c1513](#)

³⁸ [HC Deb 22 November 2013 c1528](#)

³⁹ [HC Deb 29 November 2013 c542](#)

⁴⁰ [HC Deb 29 November 2013 c549](#)

⁴¹ [HC Deb 29 November 2013 c 545](#)

⁴² [HC Deb 29 November 2013 c584](#)